

## REMARKS

In the present Office Action, claims 1, 3, 5 and 6 were examined. Claims 1, 3, 5 and 6 are finally rejected, no claims are objected to, and no claims are allowed.

By this Amendment, claims 1, 5 and 6 have been amended, no claims have been canceled, and no claims have been added. Accordingly, claims 1, 3, 5 and 6 are presented for further examination. No new matter has been added. By this Amendment, claims 1, 3, 5 and 6 are believed to be in condition for allowance.

The above amendment to claim 1 is to better set forth the meaning of “treatment” and “dose” as commonly used in this art. No new matter is intended or believed included in this Amendment to the specification because this information is merely explicitly setting forth what is generally implied or stated elsewhere in the present specification or implied or stated in the cited references in the specification that are incorporated herein by reference.

The amendments to claims 1, 5 and 6 are made to better clarify exactly what the presently claimed breath analyser is as well as better stating the step for analysing a patient's breathing.

### Rejections under 35 USC §102

The Examiner finally rejected claims 1, 3, 5 and 6 under 35 U.S.C. §102(b) as being anticipated by Wolf (U.S. Patent No. 5,809,997). Applicant respectfully traverses this rejection for the reasons stated in the previous Response and for the following reasons.

Wolf is concerned with the compliance of a patient to administer a drug to himself by way of an inhalation apparatus. The present invention concerns the measurement and

analysis of a patient's breathing during administration of a treatment to the patient by inhalation of a drug.

Wolf discloses a multidose inhaler (MDI). It is operated by causing the device to deliver a metered dose of a drug in a single breath. This dose is repeated periodically, perhaps twice a day. However, it does not deliver this dose to the patient over a plurality of breaths, as in the present application.


Moreover, with respect to claim 1, the Examiner also appears to have failed to appreciate the presence and the nature of the trend generator as defined in claim 1, which analyses the characteristics of the patient's treatment over time in order to identify trends in those characteristics. This should be clearer now that the meaning of a treatment has been specifically defined in the specification. The Examiner also appears to believe that Wolf teaches a trend generator for analysing the breath inflammation and characteristics of a patient's breathing over a number of drug deliveries. That conclusion is respectfully taken issue with. Wolf teaches whether the patient has complied with the apparatus during a treatment and the probable cause of non-compliance. It does not teach a quantitative analysis of the patient's breathing over breaths during a treatment or over a series of treatments, or over a number of drug deliveries.

Accordingly, Applicant submits that this reference does not anticipate or make obvious the invention as presently claimed and that the application is now in condition for allowance. Therefore, Applicant respectfully requests reconsideration and further examination of the application and the Examiner is respectfully requested to take such proper actions so that a patent will issue herefrom as soon as possible.

If the Examiner has any questions or believes that a discussion with Applicant's attorney would expedite prosecution, the Examiner is invited and encouraged to contact the undersigned at the telephone number below.

Please apply any credits or charge any deficiencies to our Deposit Account No. 23-1665.

Respectfully submitted,  
Jonathan Denyer, et al.



Signature of Attorney  
William A. Simons  
Wiggin and Dana LLP  
One Century Tower  
New Haven, CT 06508-1832  
Telephone: (203) 498-4502  
Facsimile: (203) 782-2889

Date: February 26, 2004  
Reg. No. 27,096